[No. 16]

FULL COMMITTEE CONSIDERATION OF H.R. 2989, H.R. 3179, H.R. 4338, H.R. 4739, H.R. 6681, H.R. 2998, H.R. 6767, H.R 6996, AND ARMY PROPOSAL TO RENOVATE WHERRY HOUSING UNITS, ST. LOUIS SUPPORT CENTER, MO.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., Tuesday, June 18, 1963.

The committee met, pursuant to call, at 10:18 a.m., in room 313–A. Cannon Office Building, Hon. Carl Vinson (chairman of the committee) presiding.

The CHAIRMAN. Have we a quorum, Mr. Smart?

Mr. SMART. Yes.

The CHAIRMAN. Let the committee come to order.

Members of the committee, we are meeting this morning for the consideration of various bills that have been recommended by the subcommittees.

H.R. 2989

The first bill that I will call up is H.R. 2989, to further amend the Missing Persons Act to cover certain persons detained in foreign countries against their will and for other purposes.

Mr. Rivers, as the chairman of the subcommittee handling that bill, what is the decision of the subcommittee?

Mr. RIVERS. Mr. Chairman, 2989 is one of five bills unanimously reported by the Subcommittee No. 1, of which I have the honor of being chairman.

The purpose of H.R. 2989 is to provide specific coverage under the Missing Persons Act for military and civilian personnel employed by the Federal Government in cold war situations and to reestablish the former policy of deferment of Federal income tax reporting and payment during the period such personnel are in a missing status.

Present law provides authority for the heads of executive departments and agencies to continue to pay any allowances of persons within the scope of the act who are "officially determined to be absent in a status of missing, missing in action, interned in a foreign country, captured by a hostile force, beleaguered by a hostile force, or beseiged by a hostile force."

All of these terms with the exception of the word "missing" standing alone, and possibly "interned in a foreign country," were originally predicated upon a declared war and if treated literally, would imply a condition of declared war.

Today, a person engaged in "cold war" or other governmental activity may be apprehended and held, or tried by a foreign power, resulting in a long period of retention by a foreign force or country. Specific coverage is requested, however, for personnel who are lost

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or detained under other than wartime conditions. This would be provided by inserting the phrase "detained in a foreign country against his will." This terminology is intended to include any situation which would involve persons who are separated from their organizations or interrupted in their assignments by action of a foreign power. Under existing law, exception to this general rule is authorized if the head of the department or agency concerned so determines. For example, absent without authority, imprisonment by a court having jurisdiction under status-of-forces agreements, and things of that nature.

Existing law would also be amended to provide for the filing and payment of income tax on the 15th day of the 3d month after termination of the "missing" status or after an executor, administrator or conservator of the estate of a missing person has been appointed. This provision was an integral part of the act when it was approved in 1942 and continued in effect until December 31, 1947.

It was not reestablished when the remainder of the act was reactivated by the Selective Service Act of 1948. As in the illustration above, in a cold war situation there is increased likelihood that individuals determined to be covered under the law may continue in the "missing" status for an extended period of time. During such disability the individual is unable to file and pay taxes on his own behalf, and under the Revenue Act, there is no one who is responsible for filing on his behalf. Should the normal 3-year period for filing for refund by the individual run out during the period of disability, or if interest is running on additional tax due from him, no relief is authorized under the Revenue Code. The requested provision is considered to be necessary for orderly and equitable administration of the affairs of missing persons.

Existing law is amended by the proposed bill to define the military personnel who are covered under the act in consonance with the definitions provided in the Career Compensation Act of 1949, as amended, 37 U.S.C. 231. This clarification will allow a common application of the definitions set forth in the Career Compensation Act and obviate the need for future amendment to meet changes in military personnel designations.

Other clarifying word changes or additions are also set forth in the proposed bill.

Passage of this legislation will not increase costs to the Department of Defense. The Department is presently applying the law to persons who are carried as "missing." Some technical amendments to the bill are necessary because of code references.

This was unanimous, Mr. Chairman.

The CHAIRMAN. Now, members of the committee, to sum it up: You see there are two things dealt with in this amendment to cover the Missing Persons Act. The first is insert "detained in a foreign country against his will," so as to provide specific coverage in cold war situations for military and civilian personnel employed by the Federal Government who are in this situation.

Now the other phase of the bill relates to proposed legislation that would assist further in an equitable administration of existing law, by reestablishing the former policy of deferring Federal income tax reports and payments during the period such persons are in a missing status.

Mr. RIVERS. That is all it does.

The CHAIRMAN. That is all there is in this bill.

Any questions to Mr. Rivers by any members of the committee?

A quorum being present, if there is no objection, the bill is unanimously reported, and on behalf of the committee——

Mr. BLANDFORD. With amendments.

The CHAIRMAN. Mr. Rivers will place the bill on the Consent Calendar and handle the bill on the floor.

Mr. BLANDFORD. With technical amendments, Mr. Chairman.

The CHAIRMAN. All amendments, technical amendments are agreed to without objection.

Mr. BATES. Mr. Chairman, what is the application of the Status of Forces Treaty under this bill? I didn't get that. I just came in.

Mr. BLANDFORD. If people are imprisoned under the Status of Forces Treaty they would not be considered to be detained against their will so as to draw their pay while serving in prison.

H.R. 3179

The CHAIRMAN. Now the next bill I call up is H.R. 3179, to provide that judges of the U.S. Court of Military Appeals shall hold office during good behavior, and for other purposes.

Mr. RIVERS. Mr. Chairman, H.R. 3179 is a bill to provide that the judges of the U.S. Court of Military Appeals shall hold office during good behavior, and for other purposes.

The bill would amend title 10, United States Code, particularly the sections dealing with the Uniform Code of Military Justice, to provide that the present Court of Military Appeals be redesignated as the "United States Court of Military Appeals."

Under this bill, the court would be established under article I of the Constitution. The bill further provides that for administrative purposes only, it will be located in the Department of Defense. Not more than two judges may be of the same political party.

Under the proposal, the judges of the court, of which there are three, would hold office during good behavior and would be entitled to the same salary, allowances, perquisites, retirement, and survivor benefits as judges of the U.S. courts of appeals.

The bill further provides that in the event of the temporary disability of one of the judges, the President would be authorized to designate a judge of the U.S. Court of Appeals of the District of Columbia to fill the office during the period of temporary disability.

It also provides that a judge of the Court of Military Appeals could retire for disability by furnishing to the President a certificate of disability signed by the chief judge. If a judge of this court were permanently disabled from performing his duties, but did not retire, the President, upon the basis of a certificate of disability signed by the chief judge, would appoint an additional judge for the efficient dispatch of business by and with the advice and consent of the Senate.

Section 2 of the bill provides for continuity between the present Court of Military Appeals and the court to be established under this proposal. An incumbent judge of the present court would become a judge of the U.S. Court of Military Appeals until the expiration of the term of his orginal appointment but he would also be eligible to be reappointed by the President as a judge with life tenure.

Retirement benefits for an incumbent judge would accrue from the date of his original appointment and he would be authorized to elect survivor benefits under 28 United States Code 376 within 6 months of the effective date of the proposed legislation.

Section 3 of the proposed legislation would preclude a judge from being paid, after resignation or retirement, a salary annuity or combination thereof based upon his judicial or other Federal service in excess of his salary as a judge of the U.S. Court of Military Appeals.

I might also add that judges of the present court are currently subject to the Civil Service Retirement Act. They contribute 6½ percent of their basic salary to the retirement fund through payroll deductions and have the same retirement and survivor benefit protection as Federal employees generally.

Sections 1 and 2 of the bill would provide the following changes in retirement and survivor benefits for incumbent judges and all judges appointed to the court in the future:

1. They would be specifically excluded from coverage under the Civil Service Retirement Act. The 6½ percent deductions now being contributed by incumbent judges would cease and they would be entitled to a refund of amounts withheld since date of judicial appointment.

2. They would be subject to the noncontributory retirement provisions (28 U.S.C. 371, 372) applicable to judges of the U.S. Court of Appeals. Incumbent judges would be credited with their service from date of original judicial appointment for purposes of retirement under the cited provisions. No period of service used for benefits under the judicial retirement provisions could ever be credited under the Civil Service Retirement Act. Only judicial service is used in determining benefits under these provisions, and a judge, current or future, would retain his right to any annuity he may have acquired under the Civil Service Retirement Act based on prior nonjudicial service.

3. They would be eligible to elect participation in the judicial survivor annuity system (28 U.S.C. 376). This is an optional contributory (3 percent of salary) system which provides automatic survivor benefits to the surviving spouse and dependent children of a participating judge upon death in active service or after retirement.

The Judicial Survivor Annuity Act permits all prior Federal service and all judicial service to be credited in the computation of survivor benefits. Any service so used may not be credited toward survivor benefits under the Civil Service Retirement Act. If a survivor benefit has been previously established under the Civil Service Retirement Act based on Federal service prior to becoming a judge, the service base for such benefit would be reduced by all periods of prior Federal service credited toward survivor benefits under the judicial survivor annuity system. If all prior service were used toward benefits under the latter system, survivor annuity entitlement under the Retirement Act would be vacated.

Section 3 of the bill would preclude a judge from being paid, after resignation or retirement under the judicial retirement provisions, any salary, annuity, or combination thereof based upon his judicial or other Federal service, in excess of the salary of a judge of the U.S. Court of Military Appeals. This restriction on the total Federal retirement income of a judge would not deprive him of any annuity

due him under the Civil Service Retirement Act. Such annuity would be payable upon his judicial retirement, but the amount of his judicial retirement pay would have to be reduced if such pay, when added to the amount of civil service annuity, exceeded the salary of a judge of the court.

This latter provision is unique and would apply only to judges of the U.S. Court of Military Appeals. No such restriction exists with respect to judges of the United States upon resignation or retirement under the judicial retirement provisions. A judge of the United States may retire with the full salary of his office and receive in addition thereto any annuity he may have earned under the Civil Service Retirement Act by virtue of nonjudical Federal service.

A letter from the U.S. Civil Service Commission, addressed to the Bureau of the Budget, states as follows:

> H.R. 3179 contains appropriate safeguards against double benefits for the same Federal service. The Commission sees nothing objectionable in the proposal to remove these judges from civil service retirement coverage and afford them the retirement and survivor benefits available to judges of the U.S. Courts of Appeals. We accordingly offer no objection to the enactment of H.R. 3179.

The Department of the Air Force on behalf of the Department of Defense interposes no objection to the proposed legislation. And they handled the bill for the Department.

Mr. Chairman, I might say that when we wrote this original act—and I was on the committee—we passed it in the House and it was changed in the other body.

Is that correct?

Mr. SMART. That is correct.

The CHAIRMAN. Is that the only change, life tenure?

Mr. RIVERS. Well, you keep them from getting double retirement or double computation under the survivors benefits. That is kind of a complicated statute.

The CHAIRMAN. Mr. Blandford, have you worked out the Ramseyer rule?

Mr. BLANDFORD. Yes, sir; we have the Ramseyer.

The CHAIRMAN. What are the changes from the present law?

Mr. BLANDFORD. The life tenure of course is the important thing.

Mr. RIVERS. That is the important thing.

Mr. BLANDFORD. But the other changes: We introduced something, as Mr. Rivers has indicated, fairly unique, in that we provide that if you have any other annuity coming to you as a result of civil service credit, the civil service annuity, together with your retirement, may not exceed the salary that you would receive when you received the maximum salary as a judge.

In other words, judges after 10 years of judicial service upon attaining the age of 70 may draw full pay, or they may draw full pay upon attaining the age of 65 with 15 years of judicial service.

However, there is nothing in existing law in the entire judicial system to preclude a Federal judge from drawing full pay plus a civil service retirement.

This, if you will recall, is what held us up last year, when we considered this bill—the retirement features and the survivors benefits. And that is what has taken us so long to work out. And we have now worked out, with the Department, a system by which a judge when

he attains the age of 70 with 10 years of judicial service may either continue as a judge or retire and draw full pay as a judge, but he may not then draw any civil service annuity in addition to that. That would be deducted from the Federal judicial pay that he receives.

Mr. BRAY. Mr. Chairman——

The CHAIRMAN. Let me ask this question.

This bill was introduced by Mr. Fogarty of Rhode Island?

Mr. BLANDFORD. Yes, sir.

The CHAIRMAN. Now have you a report from the Department of Defense on the bill?

Mr. BLANDFORD. Oh, yes.

The CHAIRMAN. Read the report, what the Department of Defense says.

Mr. BLANDFORD. All right, sir.

Mr. RIVERS. Also, Mr. Blandford——

The CHAIRMAN. Go ahead, Mr. Blandford.

Mr. BLANDFORD (reading):

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense for the views of the Department of Defense with respect to H.R. 3179, 88th Congress, a bill to provide that judges of the U.S. Court of Military Appeals shall hold office during good behavior, and for other purposes.

The Secretary of Defense has delegated to the Department of the Air Force the responsibility for expressing the views of the Department of Defense.

The bill would amend section 867(a) of title 10, United States Code, article 67(a) of the Uniform Code of Military Justice, in the following respects:

(a) The present Court of Military Appeals would be redesignated as the United States Court of Military Appeals, would be expressly declared a court established under article I of the Constitution of the United States and would be located for administrative purposes only in the Department of Defense.

(b) The judges of the court would hold office during good behavior and would be entitled to the same salary, allowances, perquisites, retirement and survivor benefits as judges of United States Courts of Appeals.

(c) In the event of the temporary disability of one of the judges, the President could designate a judge of the United States Court of Appeals for the District of Columbia to fill the office for the period of temporary disability. A judge of the court could retire for disability by furnishing to the President a certificate of disability signed by the chief judge. If a judge were permanently disabled from performing his duties but did not retire, the President could, upon the basis of a certificate of disability signed by the chief judge, appoint an additional judge to insure the efficient dispatch of court business.

Section 2 of the bill would provide for continuity between the present Court of Military Appeals and the court that would be established under the bill. An incumbent judge of the present court would become a judge of the U.S. Court of Military Appeals until the expiration of the term of his original appointment, but he could at any time be reappointed by the President as a judge with life tenure. Retirement benefits for an incumbent judge would accrue from the date of his original appointment, and he would be authorized to elect survivor benefits under 28 U.S.C. 376 within 6 months of the effective date of the proposed act.

Section 3 of the bill would preclude a judge from being paid, after resignation or retirement, a salary, annuity, or combination thereof based upon his judicial or other Federal service, in excess of his salary as a judge of the U.S. Court of Military Appeals.

Previous bills designed to make changes in the structure of the Court of Military Appeals were opposed by the Department of Defense on the grounds that they could be interpreted as establishing the court as a part of the judicial system under article III of the Constitution of the United States. In its reports on bills introduced in the 87th Congress—H.R. 4352, H.R. 5703, and S. 830—the Department of Defense observed that although the court should be completely independent in its judicial actions from the Department of Defense or any of its agencies, it should, by virtue of its functions, remain a part of the executive branch. The Department of Defense further observed that within this concept

it would not oppose legislation designed to enhance the dignity and prestige of the Court of Military Appeals and its several judges and to provide additional personal benefits for the judges of the court.

H.R. 3179 would eliminate the problems raised by the provisions of previous bills. By expressly providing that the U.S. Court of Military Appeals is established under article I of the Constitution of the United States, the bill would make clear congressional intent to establish a legislative court under the authority granted Congress by that article to make rules for the Government and regulation of the land and naval forces. It is assumed that this provision would, within the criteria announced by the Supreme Court in *Glidden* v. *United States* and *Lurk* v. *United States*, 82 S. Ct. 1459 (1962), 370 U.S. 530, preclude any question of whether the court is created under article III of the Constitution, pertaining to the vesting of judicial power of the United States.

The Department of the Air Force, on behalf of the Department of Defense, therefore interposes no objection to H.R. 3179.

As a technical matter, it is noted that "article 1" on page 1, line 6, of the bill should read "article I", and that the words, ", United States Code" should be stricken from page 2, line 12, as surplusage.

The enactment of this legislation would have some impact on the budgetary requirements of the Department of Defense, but the extent of the impact would depend upon the implementing procedures employed by the court in the administration of the provisions of the bill.

This report has been coordinated within the Department of Defense in accordance with the procedures prescribed by the Secretary of Defense.

The Bureau of the Budget advises that from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Mr. RIVERS. I wanted the committee to understand that this is a legislative court under article I and not under the judicial system, under article II. Therefore, we have the right to do it. We do it in this bill, being a legislative court. That is one of the main features of the bill.

The CHAIRMAN. How would you—one thing, Mr. Rivers. How would one be removed under the proposed bill?

Mr. RIVERS. Only for malfeasance.

The CHAIRMAN. Oh.

Mr. RIVERS. Only for malfeasance in office.

Mr. BRAY. Who determines that?

Mr. BLANDFORD. It would be—to be removed——

Mr. RIVERS. Wait. What if he got sick and was under disability?

Mr. BLANDFORD. Judges of the Court of Military Appeals may be removed by the President upon notice and hearing for neglect of duty or malfeasance in office, but for no other cause.

The CHAIRMAN. Then it is not by impeachment.

Mr. BENNETT. You could always impeach him.

Mr. RIVERS. You can impeach anybody.

Mr. BENNETT. The Constitution requires that.

Mr. BRAY. Mr. Chairman——

Mr. ARENDS. Let me ask two questions, just as a matter of information.

Who are the three judges at the present time?

Mr. BLANDFORD. I beg your pardon?

Mr. ARENDS. Who are the three judges?

Mr. BLANDFORD. Judge Kilday, Judge Ferguson, and Judge Quinn. Judge Quinn is the Chief Judge.

Mr. ARENDS. All right.

Now in your own words, what prompts this resolution?

Mr. BLANDFORD. Actually this is to carry out what the House of Representatives originally enacted into law in 1949, when this committee recommended that for a court to properly function, that it be a lifetime court with all of the dignity of a Federal court, and that these judges be appointed for life in the same manner as we appoint all other Federal judges.

Mr. RIVERS. Let me take a shot at that also. We thought—Charley Elston was the guiding genius behind this. And when we wrote this act, the House recommended they have life tenure. Charley insisted on it. And we had to give in to the Senate.

Now we have tried this court. It has been eminently successful. It has a terrific background, with good lawyers on that court, and it ought to have the dignity of life tenure. And we wanted to do it last year. I always wanted to do it. They should have it. This is one of the most important courts we have in America. They have a teriffic schedule.

Mr. HÉBERT. You don't freeze these judges.

Mr. RIVERS. No, you don't freeze these judges. They have to be reappointed.

The CHAIRMAN. Mr. Bray.

Mr. BRAY. There is one question I have to ask, Russ. And that is you have not given it the dignity, because the President himself can remove them, and he cannot remove Federal judges. If you are going to do it, let's go the whole——

Mr. BLANDFORD. There is where you get into the distinction between a legislative court and a constitutional court. This is one of the complicating factors that were involved, plus certain writs that only a constitutional court can grant.

Mr. BRAY. If we have a right to go this far, we have a right to go and say the removal should be on the same basis as any other Federal——

Mr. RIVERS. We could do that.

Mr. BLANDFORD. We could, Mr. Bray, but what we are attempting to do here is to exercise the authority of the Congress to establish a legislative court. This gets into a great realm of constitutional law, as you know.

Mr. BRAY. It doesn't say who is to make the hearing. It doesn't say anything about the hearing or how the board or court shall be appointed, its review, or any other——

Mr. BLANDFORD. I believe this language is identical, if I am not mistaken—and I would have to correct myself if I am wrong. I believe the language is identical with the other legislative courts that have been established.

Mr. BRAY. Is there any reason why the same rules could not apply there, since you are making them on the same theory that you make these courts on the same basis as other Federal courts?

I certainly have no objection to it. I think the court has done a wonderful job. I am deeply proud of the job they have done, and followed it very closely.

Mr. RIVERS. They have.

Mr. BRAY. And I see no reason, if we can.

Now I haven't studied that matter, but why we shouldn't be exactly the same as any other judge.

Mr. BLANDFORD. The article III courts now say:

The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior.

The Constitution itself doesn't say who will decide when they are on their good behavior.

What I am saying in effect is that you have here a requirement for a legislative court, that so long as they perform properly they can only be removed for neglect of duty and malfeasance, which seems to be a proper exercise of the power of the Congress to establish a legislative court.

Mr. BRAY. What if you use the same word as is used——

Mr. BLANDFORD. Mr. Bray, we tried to avoid this, and what we are getting into here is the same thing we got into last year, we are trying desperately to avoid using the same language, which would then be construed as clothing this court with all of the aspects of a constitutional court, where then we lose our jurisdiction.

Mr. BRAY. I know you studied it more than I have and I don't want to pursue it. I will take your word for it.

Mr. BLANDFORD. We had to bend over backward, otherwise we wouldn't even have jurisdiction over this bill to make it a legislative court.

Mr. BRAY. But you don't know you can get this bill through the other body?

Mr. BLANDFORD. No. All we are doing is what the subcommittee felt was the proper thing to do.

Mr. BRAY. I am not objecting.

The CHAIRMAN. Mr. Bates, any questions?

Mr. BATES. Yes, Mr. Chairman.

When the present term of the sitting judges runs out they will then have to be appointed by the President to come under the purview of this law?

Mr. BLANDFORD. They would, but there is nothing in this law and it is now contemplated that all of the judges now sitting will be appointed, as soon as this bill becomes law, to a life tenure.

Mr. BATES. We would expect them to be redesignated?

Mr. BLANDFORD. Yes, they would be redesignated, I would assume, within 60 days after the bill becomes law.

Mr. BATES. Is this in a statutory retirement law?

Mr. BLANDFORD. They come under the Federal judicial retirement system; we clothe them with all the perquisites of Federal judges, including retirement benefits; at age 65, they can retire with 15 years of service; at age 70, after 10 years of service, they can retire.

Mr. BATES. But nothing for less than 10 years, unless there is——

Mr. BLANDFORD. Unless there is a disability.

Mr. RIVERS. Disability.

Mr. BATES. Right.

Now on page 3 you make reference to that subject with regard to the certificate of disability which must be signed by the chief judge.

Mr. BLANDFORD. Yes, I know your question and I will give you your answer. I say I have already anticipated your question.

Mr. BATES. You know my question?

Mr. BLANDFORD. Yes, sir.

Mr. BATES. Mr. Chairman, no sense in me stating it.

The CHAIRMAN. No.

Put your answer in the record.

Mr. BLANDFORD. The answer to the question——

Mr. BATES. Someone might read it.

Mr. ARENDS. Do you know his answer?

Mr. BATES. I know his answer, Mr. Chairman.

The CHAIRMAN. Let there be order.

Mr. HARDY. He knows the question and you know the answer.

Mr. BATES. I think, for legislative purposes, we should get both the question and the answer in here, because the situation might come up. In the event that something happens to the chief judge——

Mr. BLANDFORD. Yes.

Mr. BATES. Who then signs the certificate——

Mr. BLANDFORD. A new chief judge.

Mr. BATES. And the President can, from time to time——

Mr. BLANDFORD. The President always has the power to designate, from time to time, under existing law, the chief judge. So if the chief judge became obstreperous, say, lost his mind, and I use that as an example, or had a very severe heart condition that precluded him from serving as a judge, the President, in a very courteous manner, would say "You are no longer chief judge. Judge Jones is chief judge, so he will sign the certificate of disability."

Mr. BATES. That takes care of both the question and the answer.

Mr. BLANDFORD. Yes, sir.

The CHAIRMAN. Any further questions?

If there is no further question, a quorum being present, the bill will be unanimously reported by the full committee, and Mr. Rivers will be requested to appear before the Rules Committee and request a rule for this bill. Without objection, the bill is unanimously reported, a quorum being present.

H.R. 4338

Now the next bill is H.R. 4338, to amend title 37, United State Code, to authorize travel and transportation allowances for travel performed under orders that are canceled, revoked, or modified, and for other puposes.

Mr. Rivers.

Mr. RIVERS. Mr. Chairman, this bill is to amend title 37, by adding a new section to provide that a member of the uniformed services shall be entitled to travel and transportation allowances, and reimbursement for transportation of his dependents, baggage, and household goods for travel performed under orders directing him to make a change of station that are later canceled, revoked, or modified to direct him to return to the station of origin or to another station.

Situations have arisen in the past in which personnel have been granted leave before reporting to their new duty stations, and, while on leave, their orders are changed. Under existing law, personnel in this situation can only be reimbursed for travel from their old duty station to the new duty station, even though they may have left their old duty station and proceeded long distances toward the duty station designated in their original orders.

Under existing law, if the change in orders takes place while in a leave status they are considered, for reimbursement purposes, to be stationed at their old duty station. Obviously, this works a great inequity in the case of members of the uniformed services who have already proceeded, while in a leave status, toward their new duty station, which may be in the opposite direction of the duty station to which they are ordered under the modified or revoked orders.

The proposed legislation is retroactive to October 1, 1949, and it is estimated to involve a cost of approximately $524,000.

The proposed legislation was contained in the original proposed military pay increase bill submitted by the Department of Defense. It was deleted from that bill so that it could be considered properly, separately.

Mr. Blandford has a classic explanation of this bill, where he said if the Department had any brains in many instances they could pick up a phone and avoid all of this. This just changes an obvious inequity which happens up and down the line.

The CHAIRMAN. Are you finished?

Mr. RIVERS. Yes.

The CHAIRMAN. What is the Department's answer?

Mr. BLANDFORD. The Department favors it. As a matter of fact, this was originally submitted as a part of the military pay bill.

The CHAIRMAN. Well, would it not probably be better in there?

Mr. BLANDFORD. No, sir; because it was retroactive.

The CHAIRMAN. The retroactive feature here is going to cost $500,000.

Mr. BLANDFORD. This is the reason we wanted to consider it separately, Mr. Chairman, because no other provision of the bill reported to the House contained a retroactive feature, and we felt that the subcommittee should give this separate consideration. It didn't belong in a pay bill.

The CHAIRMAN. All right.

Now it is impossible to figure what the future cost is going to be.

Mr. RIVERS. Yes——

The CHAIRMAN. Wait.

Mr. BLANDFORD. If the past cost from 1949 to 1963 is $500,000, on the cases that are known, it is safe to assume that you will run about a $50,000-a-year average, or something of that nature.

Mr. RIVERS. Wait now; let me finish.

Here is what it will do, it will make the Department more careful about this negligence they are permitted to stack up on people who have been compelled to pay bills they didn't know they were contracting and exacting money from them they didn't owe.

This is an obviously inequitable piece of legislation.

Mr. BRAY. It would be much more of a discouragement if the officer stupid enough to do that, if we let him pay that.

Mr. BLANDFORD. Unfortunately it is not the disbursing officer. If I may give an illustration of what this bill is.

It first came to your attention, Mr. Chairman, and you wrote a letter to the Department of Defense about this, about 4 years ago. We had the case of a captain whose wife and two children lived in California while the captain was in Korea. The captain returned to California and he received a set of orders to report to Fort Benning, Ga. He was also authorized travel time and 30 days' leave.

He proceeded from California by himself in his family automobile, put his wife and two children on an airplane and sent them to New York in advance of his travel because he was going to bring the car across and thought he could make better time.

He got to New York City and there was a telegram waiting for him, saying "Your orders have been changed, you will report to California," about 60 miles away from where he originally got off the ship from Korea.

As a result, he paid all of the travel of his family and his own travel from California to New York and return because he had proceeded on his own time on leave and his orders were not effective and would not have been effective unless he had delayed until the last day to leave from his last duty station and then proceeded directly to his new duty station.

The theory under the General Accounting Office decision is that an individual for practical purposes should never take leave until he arrives at his new duty station and then apply for leave.

Anybody who has had military experience knows if you wait to arrive at your new station to ask for leave you will lose it, because the man you are going to relieve is anxious to get out of there.

So what we are trying to do here is to prevent these people from losing money out of their own pockets. When these cases do happen they involve several hundred dollars and they are pretty hard on the individual.

The CHAIRMAN. Why do you select a certain date for retroactivity?

Mr. BLANDFORD. Because this is when it became effective.

The CHAIRMAN. But why——

Mr. BLANDFORD. October 1 is the date of the Career Compensation Act, when these allowances were first rewritten.

Mr. RIVERS. That is right. That is the original date.

The CHAIRMAN. Any further questions?

Mr. ARENDS. Russ, did you say this man went from California assigned to Fort Benning?

Mr. BLANDFORD. He was assigned to Benning and therefore was authorized, in his own mind, he thought he was going to get travel for his wife and children——

The CHAIRMAN. A quorum being present——

Mr. ARENDS. He went to New York?

Mr. BLANDFORD. He went to New York on leave because he had another 30 days to wait before he reported to Benning. And he just paid 700-some-odd dollars out of his own pocket.

Mr. GAVIN. Mr. Chairman.

Mr. BUCKHALTER. Mr. Chairman.

Mr. GAVIN. Mr Chairman, what happened in this particular case? Was he reimbursed?

Mr. BLANDFORD. In this particular case the Comptroller General wrote him a very nice letter telling him how unfortunate the whole thing was and that he had to pay for it himself.

There have been several relief bills, and Mr. Bates brought this out during the hearings, that he would doubt the wisdom of passing this law if it didn't indicate that if we do not pass this bill we will be continually plagued with private relief bills. And we have passed several private relief bills, not this committee, but the Judiciary Committee.

The CHAIRMAN. The way to correct situations like this is that whenever an assignment is being changed it should be done only over the signature of the Secretary of Defense.

Mr. RIVERS. That would be a good one. It would stop a lot of it.

Mr. BLANDFORD. It can be stopped in the easiest manner possible. If a man gets a set of orders and somebody in BuPers or wherever it is decides they are going to change those orders, if they would merely pick up the telephone and say "is the man and his family still on the base? If so, tell him we have a new change of order, and not to leave." If the man has left, he should wait until he gets to his new station and then issue the new set of orders.

The CHAIRMAN. Without objection, a quorum being present——

Mr. NEDZI. I have one question.

The CHAIRMAN. Mr. Nedzi.

Mr. NEDZI. As to whether there was any discussion to make this bill only prospective and leave the remedy for those who suffered in the past to pursue the private bill route?

Mr. BLANDFORD. There was discussion only to this extent, that we decided it was better to handle it in this bill, because there are—this iincludes repayments that have already been made and it will obviate the introduction of private bills which have been held up pending the action of this bill.

This in a sense is a general relief bill for all of these past cases, so why not handle it with 1 bill rather than 8, 10, 25, or more?

The CHAIRMAN. This is the Department's bill?

Mr. BLANDFORD. Yes, sir.

Mr. BURKHALTER. Mr. Chairman.

The CHAIRMAN. Mr. Burkhalter.

Mr. BURKHALTER. Mr. Counsel, I have had numerous complaints, I would say as many as three or four, and I have introduced private bills to take care of them.

Now I know of a case where a man was transferred from, let's say, the east coast or Southern, one of the Southern States, I am not sure just where now, offhand to Edwards Air Force Base. He was there a few months and he brought his family out, notified them to come out, furniture, household belongings, so forth, at a cost of in excess of $600.

This happened about 2 years ago. This man has never been compensated yet, but in the meantime, in the meantime before the furniture arrived he got orders and was transferred to another station somewhere, I think down in Texas, if I am not mistaken.

Now I know of two or three similar cases to this one. I have introduced at least two private bills to take care of those cases.

Now this amendment, what will it do, will it take care of those problems?

Mr. BLANDFORD. I don't believe so, Mr. Burkhalter. I think you are talking about a different situation. I can't visualize, unless the man was below the grade of E–4, a situation in which a men reported for duty and then later sent for his family without being reimbursed.

Now it could be this, what you could have would be a set of temporary duty orders where he is not authorized to take his dependents at Government expense. This, I suspect, is what happened in the case you are referring to, that the man was sent on temporary duty and thought he was going to be there for perhaps 5 or 6 months, so at his

own expense he brought his family out and then they gave him—they shortened his tour of temporary duty and gave him a permanent set of orders to a new duty station, in which case he would be authorized transportation for his dependents from their previous address, where they had been before the temporary duty orders were issued to the new duty station, which might in that case be a lesser distance than the distance to California, which would then mean he would have to pay the difference, himself.

The CHAIRMAN. Without objection the bill will be favorably reported, and Mr. Rivers is requested to ask for a rule on this bill, because there is $500,000 retroactive pay and I think that is too close——

Mr. BLANDFORD. No, sir. One million dollars is the rule on the Consent Calendar.

The CHAIRMAN. $500,000.

Mr. SMART. A million dollars.

Mr. BLANDFORD. $1 million is the Consent Calendar rule.

The CHAIRMAN. I know, but I think you would have trouble in view of it being retroactive. You had better get a rule on this, Mr. Rivers.

Without objection the bill will be favorably reported, and we will ask for a rule on it.

Mr. RIVERS. You made that decision just like you did on the pay bill.

The CHAIRMAN. If you think you can pass it on the Consent Calendar——

Mr. RIVERS. Let us take a chance.

The CHAIRMAN. All right. You will hurt the bill if you fail to get it that way.

The next is H.R. 4739, to amend section 406 of title 37, United States Code, with regard to advance movement of dependents and baggage and household effects of members of the uniformed services.

Mr. Rivers?

Mr. RIVERS. Mr. Chairman, this was also contained in the original draft of the pay bill. It was deleted by the subcommittee and introduced as separate legislation.

This bill provides authority for the advance return of dependents, household goods, baggage, and privately owned vehicles of military members from oversea areas to locations in the United States or its possessions, when such return is determined to be in the best interests of the member or his dependents and the United States, and authorizes the return transportation to the United States or its possessions, of unmarried children of a member who became 21 years of age while the member is assigned to oversea duty.

Under existing law, authority for advance return of dependents and household goods of members is limited to "unusual or emergency circumstances." These limitations have been found too restrictive to meet the needs of the services. Unforeseen family problems and changes in a member's status, for example, may require return of dependents, houshold goods, and privately owned vehicles from an oversea area to the United States. Such circumstances, however, often do not satisfy the "unusual or emergency" requirements of the present law.

Under the proposed legislation, the subcommittee wihes to stress the fact that if the proposed legislation is enacted and dependents are returned to the United States that they may not thereafter be returned

to the oversea station from which they departed unless the service sponsor has in the meantime received a permanent change of station to another duty assignment in an oversea area, or unless the return of the dependents to the oversea station is for the convenience of the Government.

It is estimated that this will cost about $632,000.

The CHAIRMAN. Any questions of Mr. Rivers, from any member of the committee?

If not, a quorum being present——

Mr. STRATTON. Mr. Chairman.

I wasn't privileged to be present at the time that our subcommittee discussed this, but I am a little confused with respect to the provision here, the change in permanent station on page 1, line 10. Is that a change of a permanent station from one oversea post to another?

Mr. RIVERS. Mr. Blandford, we had a lot of discussion on that in the committee.

Mr. BLANDFORD. Yes. I think I can explain it.

It refers to when orders directing a permanent change of station have not been issued, because dependents are authorized to travel even in advance of the movement of the service member if a permanent change of station orders have been issued.

Really this is what this is all about. I think I should use several illustrations. Let's say you have an E–5 overseas with his wife and two children. He gets into serious difficulty and he is busted to an E–3. He therefore under ordinary circumstances would not be authorized to transport his dependents at Government expense.

Now they will bring him back and his family on a permanent change of station orders, but suppose he still must remain in Germany, we will say. Now the family cannot live on the economy on the pay of an E–3. They must return to the United States because he has been reduced in grade.

The only way that that wife today can be returned to the United States for practical purposes is to have her declared as persona non grata in the country where she is then residing, because it is not considered to be an unusual circumstance.

In other words, it is not unusual for a man to be busted, but it does create a terrific hardship for the wife and two children who wants to return to the United States.

Mr. RIVERS. I might say there we have a lot of those cases.

Mr. BLANDFORD. We have had enough of them to justify an estimate of about $600,00 a year, when you figure that it costs you about $2,000 to $3,000 a year or above for a change of station.

You also have a situation which came to our attention, without naming any names, in which a man who was authorized to have his dependents with him in a foreign country for practical purposes abandoned his wife, and lived with a foreign national. There was no way to return that wife and children other than on MATS to the United States, and there was no way whatsoever to move the household effects back to the United States.

Now this bill permits the commander to consider this a circumstance which would permit the movement of household effects at Government expense back to the United States.

These are the kinds of cases we are dealing with here.

Mr. ARENDS. How could they move them back if the household effects belong to the man? How could they?

Mr. BLANDFORD. Because the man had in effect entered into an agreement. He didn't want to have anything to do with his wife and two children, he entered into an agreement to let her have the household effects.

The Government said "Fine, but you will have to pay the expense, because we have no authority until you receive a permanent change of station."

They could have solved it by giving him a permanent change of station but he had only been over there 8 months, it was a silly waste of money to send him back to the United States with his family and then bring him right back.

The CHAIRMAN. A quorum being present, H.R. 4739 is favorably reported by the full committee, and Mr. Rivers is requested to report the bill and to determine whether or not he wants to ask for a rule or put it on the consent calendar.

H.R. 6681

The next bill is House Resolution 6681, to improve the active duty promotion opportunity of Air Force officers from the grade of major to the grade of lieutenant colonel.

Mr. RIVERS. Mr. Chairman, this is the last bill from your hard-working Subcommittee 1.

This bill would extend for 1 year Public Law 87–194, the temporary authority for the Air Force to have on active duty 4,000 additional lieutenant colonels. These are over and above the grade ceiling established by the Officer Grade Limitation Act of 1954, now codified as section 8202, title 10, United States Code. This temporary legislation expires on June 30, 1963.

The Congress recognized the Air Force officer grade limitation problem in 1959 when it temporarily authorized the Air Force 3,000 additional majors above the statutory grade ceilings. When that authority expired, after a very detailed review, the Air Force recommended a temporary increase in lieutenant colonels above the statutory ceilings, under which it is currently operating. Public Law 87–194 has materially assisted the Air Force in maintaining a minimal promotion opportunity for its officers to the grade of major and lieutenant colonel.

These temporary authorities were approved in the past pending an exhaustive study by the Department of Defense on the field grade distributions and requirements of all military services. The Department of Defense has completed the study, and its recommendations have been translated into a legislative proposal which was forwarded to the Congress in March of this year.

This proposal, called the Bolte committee recommendations, would review the procurement, promotion, and retirement laws for the military services. The committee will undoubtedly want to make a long and detailed study of this proposal, and this could not be completed prior to the expiration of Public Law 87–194.

In addition to the features already mentioned, the proposed Bolte recommendations contain a common field grade officer authorization

table. This authorization table is basic to providing similar career opportunities to all military officers regardless of service.

The extension of Public Law 87–194 is urgently needed by the Air Force pending the completion of the detailed study to which I referred. Without the extension of Public Law 87–194, the Air Force will be forced to demote or remove from active duty approximately 1,800 lieutenant colonels and terminate the Air Force active duty promotion program to major and lieutenant colonel. In this regard, it is significant to note that the promotion points to major and lieutenant colonel are presently 2 to 3 years behind the average promotion points to these grades in the other military services.

The termination of the active duty promotion program would have a serious impact on the morale of the officer force. Any further reduction in promotion opportunity in the Air Force will seriously impair our ability to attract and retain the technically qualified officers who make up the bulk of today's officer force.

The committee unanimously recommends the enactment of this temporary legislation.

The CHAIRMAN. Any questions?

Mr. BRAY. Yes, Mr. Chairman. I have some reservations on this.

Now I have been hearing this, you know, for a long time, this temporary matter. We do not blame the Air Force today for, let's say, almost reckless promotions in the past, but their action has brought about a serious condition, I am not denying that.

Now last year it was majors, wasn't it, that we had to take care of?

Mr. BLANDFORD. Several years ago.

Mr. BRAY. Several years ago it was majors, there was only 3,000, wasn't it? Now we have 4,000 in lieutenant colonels.

We well know what has been going on, you know, for a long time. It isn't going on now, but why should we now—you naturally would have less lieutenant colonels and majors, or they certainly should have, yet we took care of 3,000 majors and that was going to take care of the situation.

Now we come to 4,000 lieutenant colonels. And I see no reason why we shouldn't have been considering the Bolte report. I believe that is what you call it. I haven't studied it. And it is—the whole situation is getting, let's say, irresponsible, it seems to me.

Mr. BLANDFORD. May I comment on that?

Mr. BRAY. Yes, I wish you would, because I know you understand this.

Mr. BLANDFORD. This is an extremely complicated matter, Mr. Chairman. It goes back, as Mr. Bray indicated——

The CHAIRMAN. Wait 1 minute. What would happen if this is not extended out to June 30?

Mr. BLANDFORD. The answer is very simple, you would release a good many Reserve officers, demote some other officers from lieutenant colonel to major, block all promotion up to the grade of major, and there would be no further promotion in the Air Force to the grade of lieutenant colonel.

I think you ought to recognize the percentages that you are talking about here to start with. In the Navy, today, in the grade of commander, 11.64 percent of your officers are commanders, in the unrestricted line. In the Army, 12.39 percent of your Army officers are

lieutenant colonels. Without this legislation, the Air Force would be 8.35 percent lieutenant colonels.

Now if there is any unfairness it is because the Army would have more lieutenant colonels percentagewise than the Air Force.

Mr. BRAY. With this, what would you have?

Mr. BLANDFORD. You will raise the Air Force to 11.44 percent, which still puts them behind the Army, percentagewise.

Mr. RIVERS. They are two or three points behind all of them.

I will say this: this is one of the reasons that Bolte started under John Dahlquist, that Bolte report was so necessary. It has taken forever. We couldn't go into it. We had no assurance from the other body. The Bolte report is the nearest thing we know to cure these conditions.

Mr. BRAY. You are aware of the common jokes we used to hear. I guess now we are reaping the harvest of a very erroneous promotion system a few years ago.

Mr. BENNETT. That is right.

Mr. BLANDFORD. What happened back in the officer-personnel days of 1947 is that you put a little simple provision in the law that said you can have temporary promotions whenever you have to have additional numbers of officers serving on active duty and their promotions will be subject to such regulations as the respective Secretary may prescribe.

Now there is no question that when the Air Force started out in its career, in order to meet its table of organization requirements, many officers with relatively few years of service received accelerated promotions, we all know that.

There were many people who were colonels in the Air Force 10 years out of West Point. We have many people serving the Air Force who will have service longer as general officers than all the other grades leading up to general officer. That is true. But that is not what we are concerned with.

We are concerned here with the people that we have to worry about tomorrow who are going to serve in the Air Force, the captains and the majors who are 2 to 3 years behind their counterparts in the Army and in the Navy.

The fact that the officers senior to them have benefited by accelerated promotion doesn't help the officer who is now a captain, who is trying to get promoted to major.

Mr. BRAY. Russ, are we doing anything toward bringing about a sense of responsibility——

Mr. BLANDFORD. Yes.

Mr. BRAY (continuing). In the Air Force officer-personnel program?

Mr. BLANDFORD. The Air Force has made changes. They went from a time-in-grade system of promotion to a total commission service system. Whenever an officer receives a passover for temporary promotion it has the same effect as it is in the Navy, for practical purposes.

In other words, the Air Force in the last 4 year has come around 180° on their promotion system. They now run a promotion system almost identical to the Navy system, up to and including the grade of colonel.

Mr. BRAY. For instance a few years ago, I forget how long ago, we had to give them 3,000 more majors.

Mr. BLANDFORD. Yes.

Mr. BRAY. Now we have to give them 4,000 more lieutenant colonels. We are not coming to the situation of a few years ago where we will have to give them 5,000 more colonels?

Mr. BLANDFORD. No, but next year you are going to consider giving them more colonels. As a matter of fact, today we are not even touching colonels, but you would be interested to know that in the Army 5.09 percent of your officers are colonels, and in the Air Force only 3.9 percent.

The CHAIRMAN. Wait 1 minute. In that connection is that the basis by which we make promotion in a service?

Mr. BLANDFORD. Basically——

The CHAIRMAN. Wait. Do we not base it entirely upon the military requirement, and not upon number that is in one service and the number in another?

Mr. BLANDFORD. You have two controlling laws, you have the Officer Grade Limitation Act, which this committee wrote, which is a pyramidal system. Then you also have the Officer Personnel Act for permanent promotions, which is controlled by percentages, which this committee wrote into the law.

Mr. RIVERS. It is controlled by percentages.

The CHAIRMAN. I understand it is controlled by percentages in the group, in each one of the services, but we do not have any law that authorizies equality of number of rank in each service.

Mr. BLANDFORD. No, that is what Bolte will do.

The CHAIRMAN. Right. That is what you are trying to work to.

Mr. BLANDFORD. That is what we are working up to.

Mr. RIVERS. That is exactly it, that is what the Bolte report is about.

The CHAIRMAN. Any further questions?

Without objection, a quorum being present, the bill will be favorably reported, and we request Mr. Rivers to report the bill and determine whether or not to ask for a rule or to put it on the Consent Calendar.

Thank you, Mr. Rivers, for your wonderful work, for your hard-working committee.

Now the next chairman is Mr. Philbin.

H.R. 2998

The next bill is H.R. 2998, to amend titles 10, 14, and 38, United States Code, with respect to the award of certain medals and the Medal of Honor roll.

Mr. Philbin.

Mr. PHILBIN. Mr. Chairman and members of the committee, this bill would amend titles 10, 14, and 38, United States Code, with respect to the award of certain medals and the Medal of Honor.

The principal purpose of this legislation is to expand the authority for the award of the Medal of Honor, the Distinguished Service Cross, the Navy Cross, the Air Force Cross, and the Silver Star by the various military departments, and the Coast Guard, with respect to the

Medal of Honor, so our Government can give proper recognition to acts of heroism and gallantry which may occur during "cold war" conditions short of situations when our Armed Forces are at war with an enemy of the United States.

The bill also amends title 38 so that personnel receiving the Medal of Honor under the qualifying provisions of this legislation will have their names placed on the Medal of Honor roll and receive the certificate and pension provided by sections 561 and 562 of that title beginning at age 50.

Present laws which authorize the award of combat decorations prescribe in general that these decorations may only be awarded to persons who distinguish themselves in actual conflict with, or military operations against, an armed enemy of the United States.

Now under the present law the Navy and Marine Corps may also award the Medal of Honor to a member of the naval service who distinguishes himself conspicuously by gallantry, et cetera, "in the line of his profession." That is provided for already in the United States Code.

But for the most part, however, members of our Armed Forces who perform heroic and gallant acts while serving in an advisory capacity with, or while assisting in the operation of, friendly foreign forces engaged in armed conflict to which the United States is not a formal party, may not be awarded the decorations that I have mentioned.

You may recall that the President on April 25, 1962, by Executive order, authorized the award of the Purple Heart, and again on August 24, 1962, by Executive order, authorized the award of the Bronze Star medal to cover cold war activities.

The bill restates the criteria for the award of combat decorations to make them more consistent with the criteria announced in the Executive orders; namely, for acts which occur:

(1) While engaged in an act against an enemy of the United States;

(2) while engaged in military operations involving conflict with an opposing foreign force; or

(3) while serving with friendly foreign forces engaged in an armed conflict against opposing armed forces in which the United States is not a belligerent party.

The United States has over 11,000 men who are making an outstanding effort to assist the Republic of Vietnam in its determined war against Communist oppression. These men are involved in an all-out shooting war. The Army has been awarding the Distinguished Flying Cross (10 U.S.C. 3749), the Air Medal (Executive Order 9158 amended by Executive Order 9242–A, Sept. 11, 1942), the Legion of Merit, and the Bronze Star Medal, but there have been situations where higher awards would have been made had the authority existed to award them.

The present criteria for the award of these combat decorations should therefore be expanded to permit prompt and proper recognition of the services and sacrifices of personnel who may be involved in such "cold war" activities.

The report of the subcommittee is unanimous, and I urge the adoption of it.

Mr. BRAY. I would like to ask——

The CHAIRMAN. This is a Department bill?
Mr. PHILBIN. Department bill.
The CHAIRMAN. With a favorable report from the Department?
Mr. PHILBIN. Favorable report from the Department.
The CHAIRMAN. Any questions?
Mr. BRAY. I would like to ask one question for the record.
You haven't changed the Congressional Medal of Honor or Distinguished Cross, Navy Cross, or the Silver Star, except that you have added another criteria, that says "while serving with friendly foreign forces engaged in armed conflict against opposing armed forces in which the United States is not a belligerent party," is that correct?
Mr. PHILBIN. That is correct.
Mr. BRAY. That is the only change?
Mr. PHILBIN. That is the only change.
The CHAIRMAN. Without objection——
Mr. BECKER. Mr. Chairman, Mr. Chairman.
The CHAIRMAN. Mr. Becker.
Mr. BECKER. Maybe I misunderstood Mr. Philbin's statement. Did Mr. Philbin acknowledge in there that we are involved in a war in South Vietnam? Did I understand that?
Mr. PHILBIN. No, it is a cold war. I described it as a "cold war."
Mr. BECKER. I don't think your statement read that way.
Mr. PHILBIN. Yes; I think it did.
Mr. BECKER. Well, I heard it that way. I was wondering whether it was good, if we have it worded that way, because I think the statement said——
Mr. PHILBIN. Yes, I think I will revise what I just said. I did say here we are involved in an all-out shooting war.
Mr. BECKER. It is, but are we involved in a shooting war because we designate our group as a military assistance advisory group and do not acknowledge them as being involved in a war.
Mr. PHILBIN. That is true. This would simply recognize the fact that these men who go out——
The CHAIRMAN. Let's don't be too technical this morning.
Mr. PHILBIN (continuing). Could be given the same consideration in this kind of a situation that they could in a regular war. That is about all that it does.
Mr. BECKER. I figured your statement is a matter of record and that is why I point it out.
The CHAIRMAN. Without objection the bill will be favorably reported on behalf of the committee.
I think this bill can get by on the Consent Calendar.
Mr. PHILBIN. Yes; I think so.

H.R. 6767

The CHAIRMAN. The next bill is H.R. 6767, to amend title 10, United States Code, to provide gold star lapel buttons for the next of kin of members of the Armed Forces who lost or lose their lives in war or as a result of cold war incidents.
Mr. PHILBIN. Mr. Chairman, and members of the committee, under the existing law, gold star lapel buttons for the next of kin of members of the Armed Forces who lost or lose their lives in war or as a result of cold war incidents.

Under existing law, gold star lapel buttons are authorized for widows, parents, and next of kin of members of the Armed Forces who lost their lives during World War I, World War II, the Korean conflict, and in any subsequent war. However, there is no authority to provide gold star lapel buttons for the next of kin of members of the Armed Forces who die as a result of cold war incidents.

And the proposed legislation will remedy that defect in the law, and this provides such authority.

The CHAIRMAN. Without objection the bill will be favorably reported, and Mr. Philbin will place the bill on the Consent Calendar on behalf of the committee.

Thank you, Mr. Philbin.

H.R. 6996

The next report is Mr. Hébert's subcommittee, H.R. 6996, to repeal section 262 of the Armed Forces Reserve Act, as amended, and to amend the Universal Military Training and Service Act, as amended, to revise and consolidate authority for deferment from, and exemption from liability for induction for, training and service for certain Reserve membership and participation, and to provide a special enlistment program.

Now this is the 6 months' training program which has been considered by Mr. Hébert's committee and it is being modified.

Go ahead now, Mr. Hébert. I am just trying to help you in not having to read so much.

Mr. HÉBERT. Mr. Chairman, the subcommittee met in executive session on June 12, 1963, and agreed to report H.R. 4241 to the full committee, with certain minor amendments. These amendments were incorporated in a clean bill, which is before the committee as H.R. 6996.

Pertaining to the bill itself, simply stated, H.R. 6996 will continue the so-called 6 months' training program by providing the various military departments with permanent authority to enlist non-prior-service personnel between the ages of 17½ and 26 in a program which will require a minimum period of active duty ranging from a floor of 4 months to a maximum of approximately 18 months. The legislation will also require that such enlistees continue their Reserve participation for a total of 6 years.

The legislation has merit since it will eliminate the present conflict in the total Reserve obligation of 6-month trainees who enlist prior to achieving age 18½ and those who enlist after that date. In the first instance these enlistees have an 8-year obligation while their older contemporaries have only a 6-year obligation.

The flexible requirement for active duty will permit the service departments to enlist individuals to fill billets which have "hard skill" requirements, the enlistee being required to serve a period of active duty which will permit his achieving a degree of training compatible with requirements of a particular military billet.

This latter circumstance should, if properly administered, preclude the unfortunate situation that developed during the last involuntary recall of Reserves when the subcommittee discovered that most 6-month trainees simply did not possess the training or the military skills necessary to meet unit requirements.

LEGISLATIVE ACTION NECESSARY

The existing 6-month training program is authorized by section 262 of the Armed Forces Reserve Act, as amended. However under the provisions of that act authority for the program will expire on August 1, 1963.

Committee action is necessary to provide statutory authority for continuation of the program in its present form.

Failure to take committee action will result in a loss of the statutory deferment that applies to 6-month trainees.

COMMITTEE CHANGES

The subcommittee effected a number of technical changes on the bill. However for practical purposes it is substantially the bill as recommended by the Department of Defense.

FISCAL DATA

The Department advised that enactment would not result in any increased costs.

Now further, Mr. Chairman, this grew out of the Reserve hearing last year and came as a recommendation from the subcommittee.

The CHAIRMAN. I think the recommendation is very wise and you modified the Department's bill and wrote a bill yourself which I understand is generally in accordance with the views of the Department.

Mr. SLATINSHEK. Yes, Mr. Chairman.

The CHAIRMAN. H.R. 6996 instead of H.R. 4241, which it was originally.

I want to compliment the committee. They did an outstanding job in this matter.

Without objection——

Mr. GAVIN. Briefly just what will the bill do?

Mr. HÉBERT. Briefly, this bill will modify the existing 6-month program to permit flexibility in this active duty training period. Thus, enlistees in this program will agree to perform a period of active duty for training which will permit them adequate opportunity to obtain the training necessary to provide them with the military skills essential to their military ability. This period could in rare instances be as long as 18 months.

This is a problem we ran into in the involuntary calls during the Berlin and Cuban crises and it gives more flexibility to the Department.

Mr. GAVIN. After the 18-month training what period of time will they serve?

Mr. HÉBERT. Everybody is equal, they have a total 6-year Reserve obligation.

Mr. RIVERS. Six-year Reserve obligation.

The CHAIRMAN. Without objection——

Mr. BATES. Mr. Chairman——

The CHAIRMAN. The bill will be favorably reported, and Mr. Hébert will report the bill on behalf of the Armed Services Committee.

Mr. BATES. Mr. Chairman, Mr. Chairman.

The CHAIRMAN. Yes.

Mr. BATES. The original bill we passed many years ago provided that the Secretary of Defense could fix the number of months up to 24-months. Isn't that the way it read?

Mr. SLATINSHEK. No, sir. The original law and the existing law which will remain effective until August 1 of this year provides that there be a minimum of 3 months and a maximum of 6 months. In other words, the latitude was between the 3- and 6-month period.

Mr. BATES. I am talking about the Universal Military Training Act.

Mr. SLATINSHEK. Well, in the Universal Military Training Act the enlistment program which parallels this, relates only to the National Guard, and it is section 6(c) (2) (a) of the Universal Military Training Act, and that particular provision would be repealed by this act.

Mr. BATES. But under the University Military Training Act inductions could be made for a period not more than 24 months.

Mr. SLATINSHEK. Active duty, yes.

Mr. BATES. That is right, but not——

Mr. SLATINSHEK. Not to exceed 24 months.

Mr. BATES. So it could have been 1 month, could it not? It could be any period in between, any period?

Mr. SLATINSHEK. I don't believe so, Mr. Bates. I would have to check that, however.

Mr. BATES. Why couldn't it, if it is not more than 24 months, and they have it for 20 months, they have let them go 2 months earlier, 3 months earlier, it can be any period, can it not?

Mr. SLATINSHEK. I believe the sense of Congress is that 2 years be the required military service.

Mr. BATES. No, I don't think so. Look that up, will you?

Mr. SLATINSHEK. Yes, sir; I will.

Mr. BECKER. Mr. Chairman, I agree with Mr. Bates on that, because they are now retiring them at 20 months in certain instances. They have got the 2 months already, which they have been using, and now they are retiring them at 4 months in certain instances, so that up to 24 months, as Mr. Bates has said, could be any time up to 24 months in the judgment of the Secretary of Defense. They are now retiring them, in certain instances inductees at 20 months.

Mr. FOREMAN. Even if it is——

Mr. BECKER. Because I have a case myself.

Mr. FOREMAN. Do you have an objection to it?

Mr. BECKER. The question involved here, which Mr. Bates is raising, is the period of service, the period of service and what we will do in this bill as against in the Universal Military Training Act, the induction up to 24 months. Isn't that correct?

Mr. SLATINSHEK. You must keep in mind, of course, that this is a voluntary reserve enlistment program.

Mr. BATES. What is voluntary today? What is voluntary today? As long as you have selective service on the books, anything else is involuntary. They might make a selection of this or that, but regardless of that——

Mr. BECKER. This is involuntary so they don't get drafted. This is voluntary so that they don get drafted.

The CHAIRMAN. Without objection, without objection——

Mr. GAVIN. Just a minute.

In other words, after August 1 there will be no longer enlistments for a period of 6 months, they would be up to 18 months, is that right?

Mr. SMART. It is possible.

The CHAIRMAN. From 4 months.

Mr. HÉBERT. Six months was the limitation—3 to 6. This makes it 4 to possibly 18.

Mr. SLATINSHEK. For whatever period is necessary to provide the young man with the training required.

Mr. BATES. Why—my question is, Why can't they do that under the broad provisions of the Universial Military Training Act? Look it up and let me know, will you, Frank?

The CHAIRMAN. Without objection the bill will be favorably reported, and Mr. Hébert will determine whether to ask for a rule or put it on the Consent Calendar.

PROPOSED RENOVATION OF WHERRY HOUSING AT ST. LOUIS SUPPORT CENTER, MISSOURI

Now, members of the committee, there is one more matter I want to dispose of.

There is a communication from the—let there be order, please—from the Department with reference to renovating 120 Wherry houses in St. Louis.

Now the committee fixed a maximum limitation of $3,000 on a unit. Now they find it is going to cost about $3,900 a unit and instead of having the 120 they will turn out about 96. Now we have Lieutenant Colonel Nash here.

Tell the committee briefly about this matter.

STATEMENT OF LT. COL. LEONARD C. NASH, FAMILY HOUSING DIVISION, OFFICE DEPUTY CHIEF OF STAFF FOR LOGISTICS, DEPARTMENT OF THE ARMY

Colonel NASH. Mr. Chairman, this is a Wherry housing project located——

Mr. GAVIN. Will the gentleman please talk a bit louder?

Colonel NASH. Yes, sir. This Wherry housing project is located in St. Louis. It was constructed in 1950. It consists of two-story apartment-type buildings, 16 in number, and there are 120 very small family units. It is proposed to repair and improve these units to provide 94 two-, three-, and four-bedroom units.

These units are intended to provide housing for 60 enlisted men and 34 officers of the Support Command. This Support Command is comprised of several miscellaneous units, primarily XI Corps Reserve, a transportation command and a medical lab and optical center.

The CHAIRMAN. Why does it cost more than the committee fixed maximum cost of around $3,000 to $3,900? It is due to the fact that you are making larger quarters?

Colonel NASH. In part it is due to the fact that we are converting to—a number of these, to four-bedroom units to meet a demand. The units are getting quite old now and there is considerable amount of repair.

The CHAIRMAN. What is the total cost of the renovation?
Colonel NASH. For all units, sir?
The CHAIRMAN. Yes, on this 120 or the 96, what is your total cost?
Colonel NASH. $426,871.
The CHAIRMAN. Have you got that money down there to your credit, you have it appropriated?
Colonel NASH. It is to our credit; yes, sir.
Mr. HARDY. Mr. Chairman——
Mr. PRICE. Mr. Chairman——
The CHAIRMAN. I was just wondering if you were going to——
Mr. PRICE. Yes, I would like to get in on the subject matter.
The CHAIRMAN. Mr. Price.
Mr. PRICE. Colonel, another reason for the additional cost is the addition of about 80 different storage units, isn't it?
Colonel NASH. Yes, sir; this contributes to the cost, and because of the fact that the basic units are so small, that this additional space is required to make them adequate.
Mr. PRICE. And these additional storage units, storage additions for about 80 of the units at an average cost of $1,390, is that right?
Colonel NASH. Yes, sir.
Mr. PRICE. Would you describe these storage units for us, so we will know what they are?
Colonel NASH. These units are attached to the rear of the buildings. They are the same structure generally as the buildings, themselves. That is, concrete floor, with brick walls and asphalt shingle roofing. They are about 8- by 9-feet square.
Mr. GAVIN. Who is to decide whether they will have a four- or a five- or a six- or nine-room unit? Who reaches that decision?
Colonel NASH. It is determined by the housing officer at the installation concerned, based upon the size of the family which will be housed in this unit.
Mr. GAVIN. It will be based on the size of the family?
Colonel NASH. Yes sir.
Mr. GAVIN. As to what particular units——
The CHAIRMAN. That is right.
Mr. GAVIN (continuing). Or billet they will have?
Colonel NASH. Yes, sir.
The CHAIRMAN. Mr. Hardy.
Mr. HARDY. Mr. Chairman, when we set up a $3,000 per unit maximum limitation, a good many of us thought that that was unusually high at the time, and now you come in here and you go up to $3,900, and I have a little difficulty understanding how in the world—why we can't do better engineering or something than to spend that much money on every unit that you have got involved.
If you have a maintenance problem it is in addition to this, that is something else. But to go out and build additions on the outside of these things to provide additional storage space, Colonel, it sounds to me like you are going crazy.
The CHAIRMAN. Of course, Mr. Hardy, the trouble about all the Wherry houses, they were not designed entirely by the military. There were other factors engaged in the designing of them.
Mr. HARDY. I am aware of that, Mr. Chairman, I have been in a lot of them myself and I know how inadequate some of them are.

But here you are taking out partitions, making three- and four-bedroom units out of them, you are losing 26 units. That is a pretty high percentage and you ought to be getting a little bit more space in the walls that you are taking out. To go ahead and build this additional storage space at a cost of $12 a square foot sounds to me like it is just——

The CHAIRMAN. Is there any objection to the armed services——

Mr. GAVIN. Just a minute.

Mr. HARDY. I object, Mr. Chairman, unless I know a little more about it.

Mr. GAVIN. You are establishing a precedent. Now what about—if this is accepted by the committee, what about other bases where you may have similar conditions coming before the committee and asking that they be increased in size and number?

Mr. SLATINSHEK. Mr. Chairman, perhaps I can address myself to that.

This year in the military construction bill for fiscal year 1964 housing costs, the committee approved $6,400,000. However, in the current fiscal year, the year in which this project would be completed, there is allocated some $41,684,000.

This simply indicates that the Wherry acquisition program is just about completed and the rehabilitation of these Wherry projects is just about completed, since the Department has only requested $6,400,000 for this purpose in fiscal year 1964.

Mr. HARDY. How many more are there actually to go?

Colonel NASH. All units except one project at Fort Monroe will have been acquired by the end of this fiscal year, 1963.

Mr. HARDY. How many more have got to be renovated.

Colonel NASH. 209 units at Fort Monroe.

Mr. HARDY. Is that all you've got left?

Colonel NASH. That is all that remains for approval.

There are about three projects that are underway now, which have been approved for funding.

Mr. HARDY. They have already been approved?

Colonel NASH. Yes, sir.

Mr. HARDY. But you haven't had any before that exceeded the $3,000 limitation, have you? You have always been careful to spend all the way up to the $3,000?

Colonel NASH. I believe we have had at least one instance at Fitzsimons General Hospital where there was an excess. I am not certain of the amount.

Mr. HARDY. Mr. Chairman, I declare this business——

The CHAIRMAN. I think we will hold them—if we approve this or go along with you on this, it will not be a precedent. Now we are going to hold you down on this, because we reached the $3,000 limit and the original cost was only $9,000. That was the maximum cost of Wherry houses. And we went along with you on the $3,000 and you have made some good substantial improvements, but you must not take this as the view of the committee that we will continue this thing. We won't do it. We can't use this as a precedent.

Mr. HARDY. I thought they would be better engineers than that.

The CHAIRMAN. I think we will go along on this instance.

Mr. HARDY. We are doing it in the dark.

The CHAIRMAN. He has a long letter there he hasn't read. Put that in the record.

(The letter referred to is as follows:)

JUNE 11, 1963.

Hon. CARL VINSON,
Chairman, Committee on Armed Services,
House of Representatives.

DEAR MR. CHAIRMAN: Pursuant to your letter of March 11, 1958, to the Assistant Secretary of Defense (Properties and Installations) on the cost of renovation to acquired Wherry housing, forwarded for consideration of the committee is data on proposed renovation of the Wherry housing at St. Louis Support Center.

The proposed renovation program for this project has been approved by the Department of Defense subject to clearance by your committee.

It is respectfully requested the committee indicate its agreement with the proposed action.

Sincerely,

FRED C. WEYAND,
Major General, GS Chief of Legislative Liaison.

DEPARTMENT OF THE ARMY

WHERRY HOUSING PROJECT

St. Louis Support Center, Missouri

(Submitted pursuant to letter of March 11, 1958, from the Chairman, Committee on Armed Services, House of Representatives.)

Name of installation: St. Louis Support Center, Missouri.
Using service: U.S. Continental Army Command.
Project: This Wherry housing project, completed in 1950, consists of 120 family housing units in 16 apartment-type buildings. Of the 120 units, 2 buildings, type A, each contain 20 one-bedroom units; 2 buildings, type B, each contain 4 three-bedroom units, and 12 buildings, type C, contain 6 two-bedroom units.

Unit	Type	Number	Floor area
Present composition:			*Square feet*
1 bedroom	Apartment (A).	40	455
2 bedroom	Apartment (C).	72	697
3 bedroom	Apartment (B).	8	915
Proposed composition:			
1 bedroom		0	0
2 bedroom		72	697
3 bedroom		8	980
4 bedroom		2	1,250
		12	1,448
Total units		94	

	Amount	Average per unit
Estimated cost: [1]		
Housing repair	$92,033	$979
Housing improvements:		
(a) Common, nonstructural	141,188	1,500
(b) Structural, including storage building additions	136,580	1,450
Total housing repair, improvements	369,801	$3,929

[1] Estimated costs are based on the net units after combinations, or 94 units. Costs do not include estimated cost of $32,350 for acquisition of gas-distribution systems.

The high average unit cost for structural improvements is largely due to construction of storage room additions to 80 units at an average cost of $1,390.

	Amount	Average
Miscellaneous improvements: Sidewalks, street lighting, trash racks, etc.	$16,952	
Miscellaneous repairs: Grounds, surfaced areas, playlots, drainage, fencing	40,118	
Total	57,070	$4,550
Total project cost	426,871	

1. This project has been acquired on a permissive basis, in order to provide adequate housing units for military personnel.

2. The proposed improvements are reported in accordance with your instructions of March 11, 1958, concerning improvements costing in excess of $3,000 per unit.

(*a*) St. Louis Support Center has 40 one-bedroom units. These units will be combined to 12 four-bedroom units and 2 three-bedroom units. The resulting three-bedroom units exceed the $3,000 limitation. Additions proposed will be constructed to provide adequate kitchen, dining-living, and storage space. Other improvements include increasing electrical capacity, installing air-conditioning receptacles, ceramic tile floor and wainscots in baths, venetian blinds and water heaters, and providing larger refrigerators. Total net unit area will be 1,250 square feet. Total estimated cost for improvements is $7,097, which does not exceed the statutory limitation of $7,700 per unit for the proposed occupancy by company grade officers.

(*b*) The 8 three-bedroom, type B units will have the interior layout revised to extend the kitchen into the dining room area and modifications to improve the functional arrangements. Other improvements include increasing electrical capacity, installing air-conditioning receptacles, ceramic tile floor and wainscots in bathrooms, venetian blinds, and water heaters, and providing larger refrigerators. Storage rooms will be added to these eight units. The total net area will be 980 squart feet, and are to be occupied by company grade officers. Total estimated cost for improvement of each unit is $3,640.

The CHAIRMAN. The staff has investigated this and I have looked it over myself. I don't know whether that has any weight. But I think we are warranted in this instance, but you have got to be very cautious about this thing, because we thought $3,000 was enough on a $9,000 investment.

Mr. HARDY. We thought it was too much.

Mr. BATES. Mr. Chairman.

This storage space, will this be for items that they normally use or for things that, like the rest of us put up in the attic or down in the cellar, that we very seldom ever use? What are they going to use it for?

Colonel NASH. This would be for things that we don't normally use. For example, the military have lots of foot lockers and trunks.

Mr. BATES. Have you considered the possibility of building a storage house and assign sections of it to each family? We have that in many places, but I doubt if it would be the kind of a cost that you are going to have here. Three thousand dollars for a little storage room sounds like a lot to me. Have you explored that possibility?

Colonel NASH. I believe so. I can't say with certainty.

Mr. BATES. Now will you look into that and let the committee know about it?

Mr. Chairman, I suggest we take a look at this later.

The CHAIRMAN. Well, for the time being we will let this matter lie on the table.

Now, members of the committee, I want to thank each one of you for your presence here this morning.

We wil take a recess now, subject to the call of the Chair.

(Whereupon, at 11:47 a.m., the committee adjourned, subject to the call of the Chair.)